

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 03-00236 SI

Plaintiff,

**ORDER GRANTING IFP STATUS ON
APPEAL**

v.

NIKOLAI TEHIN,

Defendant.

Defendant Nikolai Tehin has moved the Court to grant *in forma pauperis* status in his appeal of this Court's August, 22, 2012, order denying his motion to vacate, set aside, or correct sentence.

"An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3). The Ninth Circuit has held that "if at least one issue or claim is found to be non-frivolous, leave to proceed *in forma pauperis* must be granted for the case as a whole." *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002).

The Court finds that defendant's appeal is not taken in bad faith and at least one issue or claim is non-frivolous. Therefore, defendant's request for *in forma pauperis* status on appeal is GRANTED. Accordingly, the Clerk of the Court shall waive the docketing fee (Docket No. 208). This Order resolves Docket Nos. 189 and 209.

IT IS SO ORDERED.

Dated: November 16, 2012



SUSAN ILLSTON
United States District Judge